

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 97-CR-98 (JPS)

RANDALL MILLER,

Defendant.

MILLER'S SECOND MOTION FOR COMPASSIONATE RELEASE

Randall Miller, by counsel, moves this Court for compassionate release. In support, he relies on, and incorporates by reference, the pleadings in this case at Dkt. No. 2205, 2207, 2213, 2232, 2233, 2235, and 2236. He brings this motion a second time to ensure compliance with the Seventh Circuit's recent decision in *United States v. Sanford*, No. 20-2445 (7th Cir. January 25, 2021).

Miller filed a pro se motion for compassionate release on January 14, 2020. R. 2205. On February 5, 2020, the government responded to Miller's motion. R. 2207. That response noted that Miller had satisfied the statute's exhaustion requirement. R. 2207 at 9. On July 16, 2020, on its own accord, the government supplemented its response to address the impact of the COVID-19 pandemic on Miller's motion. R. 2213. That motion did not argue that the Miller needed to re-exhaust his

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administrative remedies or ask the warden to reconsider his request in light of COVID-19. After counsel was appointed, Miller filed a supplement to that motion. R. 2232. That supplement argued, amongst other things, that the COVID-19 pandemic constituted an extraordinary and compelling reason to release Miller. R. 2233. The government responded, now arguing that Miller hadn't raised that in his original motion or his request to the BOP (he filed his request for release to the warden before the pandemic hit).

Miller replied, indicating that his original request to the warden was sufficient, but in either event, he re-submitted his request to the BOP on October 13, 2020 and Miller would have exhausted his administrative remedies by November 13, 2020 at the latest. R. 2235. At 5.

On January 25, 2021, the Seventh Circuit decided *Sanford*. *Sanford* impacts Miller's motion if the Court believes that Miller's supplement necessitated him previously submitting an additional request to the warden, because Miller did not file his supplement more than 30 days after the second request to the warden.

For that reason, and out of an abundance of caution, Miller files this second motion, which is clearly more than 30 days after his second request to the warden for compassionate release. In bringing this motion, Miller incorporates by reference, and relies on the pleadings previously submitted, including those submitted by the government.

Finally, Miller also notes that since his last filing in November, 14 more inmates have died at MCFP Springfield, for a total of 18 inmate deaths. Bureau of Prisons, Coronavirus (last viewed February 5, 2021). MCFP Springfield, Miller's prison, has become the deadliest prison in the entire federal system.

Dated at Milwaukee, Wisconsin, this 5th day of February, 2021.

Respectfully submitted,

/s/ Joshua D. Uller

Joshua D. Uller, WI Bar #1055173

Federal Defender Services

of Wisconsin, Inc.

517 E. Wisconsin Avenue – Room 182

Milwaukee, WI 53202

Tel. (414) 221-9900

Email: joshua_uller@fd.org

Counsel for Defendant, Randall Miller